

REMARKS

Claims 4, 9, 13, 17, 21, 25-42, 44, 46, 47, 82-91, and 93-106 were pending and examined in the outstanding December 2, 2003 office action. Claims 4, 13, 17, 21, 46, 47, 89-91, and 93 have been amended and new claims 107-111 have been added to clarify that which the Applicant regards as his invention. Support for the amendments to claims 4, 13, 17, 21, 89-91 can be found in the specification as filed at page 8, lines 22-24, and page 14, lines 29-31. Support for the amendments to claims 4, 46 and 47 can be found throughout the specification. Support for the amendment to claim 90 can be found in the specification as filed at page 17, lines 34-35. Support for new claims 107-110 and the amendment to claim 93 can be found in the specification as filed at page 8, lines 19-22. Support for new claim 111 can be found in the specification as filed at page 15, lines 28-30. Thus, claims 4, 9, 13, 17, 21, 25-42, 44, 46, 47, 82-91, and 93-111 will be pending upon entry of this reply. Applicant acknowledges the Examiner's withdrawal of the indefiniteness rejection of claims 93-99. Also acknowledged is the Examiner's withdrawal of the rejection of claims 4, 9, 13, 17, 21, 25-42, 46, 82, 83, 86, 90, 93-95, and 97 as obvious over Yang *et al.*, in view of either Suzue *et al.* or Chen *et al.*

INTERVIEW SUMMARY

Applicant and Applicant's representatives thank Primary Examiner Christopher H. Yaen and Supervisory Patent Examiner ("SPE") Yvonne Eyler for the courtesy of the telephonic interview of March 8, 2004 in connection with the above-identified application. Pursuant to MPEP section 713.04, Applicant submits the following statement of the substance of the interview between Examiner Yaen and SPE Eyler and Applicant's representatives Adriane M. Antler, Christine B. Chua, and Lauren C. Foster.

During the interview, the rejections set forth in the Office Action dated December 2, 2003 were discussed. Discussed were the enablement rejection under 35 U.S.C. § 112, first paragraph, and the prior art anticipation rejection under 35 U.S.C. § 102(b).

In a discussion regarding the basis of the § 112 rejection, *i.e.*, that the specification has not taught one of skill in the art how to prevent cancer using the claimed methods, SPE Eyler suggested that the claims may be allowable if the term "prevention" is deleted and replaced by "inhibiting" or "reducing" language.

Regarding the outstanding anticipation and obviousness rejections over Chen *et al.*, Dr. Antler pointed out that Chen *et al.* does not anticipate the pending claims since the claims require administration of at least two distinct molecules, one of which comprises a component that displays the antigenicity of a cancer cell and one of which does not display the immunogenicity of the component. In contrast, Dr. Antler remarked, Chen *et al.* discloses a single fusion protein of hsp70 and an HPV antigen wherein the component that displays the antigenicity of the cancer cell is necessarily the same molecule as the heat shock protein preparation, and therefore Chen *et al.* does not anticipate the claims. In response, SPE Eyler suggested that the claims may be amended to avoid the prior art and be in condition for allowance if the language “preparation” is deleted or otherwise defined or restricted, such as by amending part (b) of claim 1 to read, “administering to the subject an amount of a purified heat shock protein preparation, wherein the heat shock protein preparation comprises purified i) unbound heat shock protein, or ii) heat shock protein bound to a molecule that does not display the immunogenicity of the component.”

Examiners Eyler and Yaen agreed to consider the foregoing claim amendments upon filing of the present reply.

**THE ENABLEMENT REJECTION UNDER 35 U.S.C. § 112,
FIRST PARAGRAPH SHOULD BE WITHDRAWN**

The Examiner has rejected claims 4, 9, 13, 17, 21, 25-42, 44, 46-47, 82-89, 91, and 93-106 under 35 U.S.C. § 112, first paragraph as not enabled for “preventing” cancer. The rejected claims which recited “preventing” have been amended as suggested by SPE Eyler to replace the phrase “preventing a cancer” with the phrase “inhibiting a cancer.” Applicant notes that claim 46 was rejected in error, since this claim specifies “treating a cancer.” Applicant submits that the foregoing obviates the Examiner’s enablement rejection, and respectfully requests its withdrawal.

**THE REJECTIONS UNDER 35 U.S.C. §§ 102 and 103,
OVER CHEN *ET AL.* SHOULD BE WITHDRAWN**

The Examiner has rejected claims 4, 9, 13, 27, 30, 33, 42, 44, 46, 82, 86, 93, 94, 95, 97, 100, and 101 as anticipated under 35 U.S.C. § 102(b) by Chen *et al.* and as obvious under 35 U.S.C. § 103 in view of Chen *et al.* Claim 4 has been amended as suggested by Examiner Eyler to replace the phrase “wherein the heat shock protein preparation does not display the immunogenicity of the component” with the phrase “wherein the heat shock protein

preparation comprises purified i) unbound heat shock protein, or ii) heat shock protein bound to a molecule that does not display the immunogenicity of the component.” For all the reasons set forth in the amendments filed on December 23, 2003 and September 10, 2003, and as discussed in the telephonic interview, Applicant submits that the foregoing amendment obviates the Examiner’s rejections, for anticipation and obviousness, respectively, and respectfully requests their withdrawal.

Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (212) 790-2247, if a telephone call could help resolve any remaining issues.

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Respectfully submitted,

 32,605
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